

AIPLA

Report of the Economic Survey

2003

**PREPARED UNDER DIRECTION OF
LAW PRACTICE MANAGEMENT COMMITTEE**

American Intellectual Property Law Association

2001 Jefferson Davis Highway, Suite 203
Arlington, Virginia 22202
www.aipla.org

Table 22. Estimated Costs of Litigation, by Location of Primary Place of Work (*continued*)

| Total Survey | LOCATION OF RESPONDENT'S PRIMARY PLACE OF WORK | | | | | | | | |
|---|--|----------|-------------------------|--------------------|------------|-----------------|-----------------|--------------|----------------------|
| | Boston Area | NYC Area | Philadelphia—Wilmington | Washington DC Area | Other East | Metro Southeast | Other Southeast | Chicago Area | Minneapolis—St. Paul |
| | Other Central | Texas | California | Other West | | | | | |
| ESTIMATE OF TOTAL COST, THROUGH END OF DISCOVERY AND INCLUSIVE, IN A PATENT INFRINGEMENT SUIT | | | | | | | | | |
| More than \$25 million at risk | | | | | | | | | |
| <u>End of discovery</u> | 253 | 10 4% | 17 7% | 14 6% | 33 13% | 16 6% | 9 4% | 7 3% | 23 4% |
| <u>Number Reporting</u> | | | | | | | | | |
| <u>% of total</u> | | | | | | | | | |
| 75th percentile (\$000's) | \$4,000 | \$3,000 | \$3,000 | \$4,000 | \$5,000 | \$3,000 | \$2,000 | \$3,500 | \$2,000 |
| Median (\$000's) | \$2,500 | \$2,500 | \$2,000 | \$4,000 | \$3,000 | \$1,000 | \$2,000 | \$1,500 | \$1,500 |
| 25th percentile (\$000's) | \$1,000 | \$1,500 | \$1,000 | \$2,500 | \$2,000 | \$500 | \$1,000 | \$750 | \$2,000 |
| <u>Inclusive, all costs</u> | 258 | 11 4% | 17 7% | 15 6% | 34 13% | 17 7% | 9 3% | 7 3% | 23 9% |
| <u>Number Reporting</u> | | | | | | | | | |
| <u>% of total</u> | | | | | | | | | |
| 75th percentile (\$000's) | \$5,996 | \$5,494 | \$5,009 | \$5,007 | \$7,990 | \$4,010 | \$5,006 | \$7,994 | \$5,494 |
| Median (\$000's) | \$3,995 | \$4,500 | \$3,750 | \$4,995 | \$5,000 | \$3,000 | \$3,500 | \$1,300 | \$3,506 |
| 25th percentile (\$000's) | \$2,306 | \$2,506 | \$2,506 | \$2,244 | \$2,506 | \$3,010 | \$2,494 | \$806 | \$2,306 |
| ESTIMATE OF TOTAL COST, THROUGH END OF DISCOVERY AND INCLUSIVE, IN A TRADEMARK INFRINGEMENT SUIT | | | | | | | | | |
| Less than \$1 million at risk | | | | | | | | | |
| <u>End of discovery</u> | 170 | 5 3% | 10 6% | 3 2% | 17 10% | 13 8% | 3 2% | 8 5% | 19 11% |
| <u>Number Reporting</u> | | | | | | | | | |
| <u>% of total</u> | | | | | | | | | |
| 75th percentile (\$000's) | \$248 | \$251 | \$250 | \$200 | \$301 | \$201 | \$120 | \$138 | \$250 |
| Median (\$000's) | \$150 | \$200 | \$99 | \$90 | \$152 | \$101 | \$49 | \$88 | \$199 |
| 25th percentile (\$000's) | \$98 | | | | \$148 | \$49 | | \$51 | \$102 |
| <u>Inclusive, all costs</u> | 166 | 5 3% | 9 5% | 3 2% | 18 11% | 13 8% | 3 2% | 8 5% | 17 10% |
| <u>Number Reporting</u> | | | | | | | | | |
| <u>% of total</u> | | | | | | | | | |
| 75th percentile (\$000's) | \$401 | \$801 | \$451 | \$350 | \$750 | \$500 | \$302 | \$205 | \$451 |
| Median (\$000's) | \$298 | \$400 | \$350 | \$174 | \$159 | \$401 | \$298 | \$138 | \$302 |
| 25th percentile (\$000's) | \$198 | | | | | \$226 | \$119 | \$78 | \$299 |

Table 22. Estimated Costs of Litigation, by Location of Primary Place of Work (*continued*)

| | | Location of Respondent's Primary Place of Work | | | | | | | | | | | |
|---|-------------|--|-------------------------|--------------------|------------|-----------------|-----------------|--------------|----------------------|---------------|---------|------------|------------|
| Total Survey | Boston Area | NYC Area | Philadelphia-Wilmington | Washington DC Area | Other East | Metro Southeast | Other Southeast | Chicago Area | Minneapolis-St. Paul | Other Central | Texas | California | Other West |
| ESTIMATE OF TOTAL COST, THROUGH END OF DISCOVERY AND INCLUSIVE, IN A TRADEMARK INFRINGEMENT SUIT \$1-\$2.5 million at risk | | | | | | | | | | | | | |
| End of discovery | | | | | | | | | | | | | |
| Number Reporting | 142 | 5 | 8 | 3 | 14 | 9 | 3 | 8 | 14 | 5 | 30 | 13 | 15 |
| % of total | 4% | 6% | 2% | 10% | 6% | 2% | 6% | 10% | 4% | 21% | 9% | 11% | 10% |
| 75th percentile (\$000's) | \$501 | \$402 | \$501 | \$999 | \$401 | \$250 | \$502 | \$451 | \$399 | \$901 | \$751 | \$401 | \$300 |
| Median (\$000's) | \$365 | \$399 | \$425 | \$550 | \$151 | \$150 | \$401 | \$400 | \$225 | \$450 | \$502 | \$401 | \$199 |
| 25th percentile (\$000's) | \$199 | \$251 | \$225 | \$251 | \$124 | \$100 | \$250 | \$251 | \$99 | \$398 | \$398 | | |
| Inclusive, all costs | | | | | | | | | | | | | |
| Number Reporting | 144 | 5 | 9 | 3 | 14 | 10 | 3 | 8 | 15 | 5 | 30 | 13 | 14 |
| % of total | 3% | 6% | 2% | 10% | 7% | 2% | 6% | 10% | 3% | 21% | 9% | 10% | 10% |
| 75th percentile (\$000's) | \$999 | \$801 | \$999 | \$1,998 | \$749 | \$325 | \$1,001 | \$801 | \$700 | \$1,301 | \$1,750 | \$601 | \$501 |
| Median (\$000's) | \$602 | \$600 | \$750 | \$1,400 | \$950 | \$500 | \$225 | \$750 | \$450 | \$800 | \$1,000 | \$702 | \$399 |
| 25th percentile (\$000's) | \$398 | \$399 | \$499 | \$700 | \$250 | \$145 | \$300 | \$401 | \$250 | \$649 | | | |
| More than \$2.5 million at risk | | | | | | | | | | | | | |
| End of discovery | | | | | | | | | | | | | |
| Number Reporting | 107 | 3 | 4 | 2 | 11 | 8 | 2 | 4 | 13 | 5 | 18 | 11 | 15 |
| % of total | 3% | 4% | 2% | 10% | 7% | 2% | 4% | 12% | 5% | 17% | 10% | 14% | 9% |
| 75th percentile (\$000's) | \$1,002 | \$1,989 | \$1,999 | \$750 | \$275 | \$252 | \$1,004 | \$803 | \$603 | \$1,999 | \$1,503 | \$503 | \$450 |
| Median (\$000's) | \$599 | \$598 | \$300 | \$1,250 | \$148 | \$148 | \$500 | \$800 | \$400 | \$800 | \$1,001 | \$503 | \$250 |
| 25th percentile (\$000's) | \$305 | \$749 | | \$749 | | \$501 | \$351 | \$150 | \$603 | | | | |
| Inclusive, all costs | | | | | | | | | | | | | |
| Number Reporting | 107 | 3 | 4 | 2 | 11 | 9 | 2 | 4 | 13 | 5 | 18 | 11 | 14 |
| % of total | 3% | 4% | 2% | 10% | 8% | 2% | 4% | 12% | 5% | 17% | 10% | 13% | 9% |
| 75th percentile (\$000's) | \$1,989 | \$1,006 | \$1,000 | \$650 | \$3,990 | \$1,006 | \$2,997 | \$1,306 | \$1,006 | \$3,003 | \$2,992 | \$1,000 | \$675 |
| Median (\$000's) | \$1,006 | \$1,000 | \$650 | \$1,600 | \$600 | \$1,000 | \$1,400 | \$1,000 | \$683 | \$2,000 | \$1,875 | | |
| 25th percentile (\$000's) | \$606 | | | \$1,009 | \$491 | \$450 | \$944 | \$503 | \$400 | \$856 | \$1,244 | | \$500 |

Table 22. Estimated Costs of Litigation, by Location of Primary Place of Work (*continued*)

| LOCATION OF RESPONDENT'S PRIMARY PLACE OF WORK | | | | | | | | | | | | | |
|---|-------------|----------|-------------------------|--------------------|------------|-----------------|-----------------|--------------|----------------------|---------------|-------|------------|------------|
| Total Survey | Boston Area | NYC Area | Philadelphia-Wilmington | Washington-DC Area | Other East | Metro Southeast | Other Southeast | Chicago Area | Minneapolis-St. Paul | Other Central | Texas | California | Other West |
| ESTIMATE OF TOTAL COST, THROUGH END OF DISCOVERY AND INCLUSIVE, IN A TRADEMARK OPPOSITION/CANCELLATION | | | | | | | | | | | | | |
| End of discovery | | | | | | | | | | | | | |
| Number Reporting | 153 | 5 | 9 | 2 | 14 | 15 | 5 | 9 | 12 | 2 | 29 | 12 | 19 |
| % of total | | 3% | 6% | 1% | 9% | 10% | 3% | 6% | 8% | 1% | 19% | 8% | 12% |
| 75th percentile (\$000's) | \$75 | \$70 | \$50 | \$50 | \$90 | \$50 | \$250 | \$40 | \$60 | \$50 | \$150 | \$100 | \$75 |
| Median (\$000's) | \$50 | \$50 | \$45 | \$45 | \$60 | \$25 | \$100 | \$15 | \$45 | \$35 | \$65 | \$75 | \$25 |
| 25th percentile (\$000's) | \$20 | \$25 | \$20 | \$20 | \$25 | \$5 | \$30 | \$7 | \$23 | \$20 | \$38 | \$30 | \$20 |
| Inclusive, all costs | | | | | | | | | | | | | |
| Number Reporting | 154 | 5 | 8 | 2 | 15 | 16 | 5 | 9 | 13 | 2 | 27 | 12 | 18 |
| % of total | | 3% | 5% | 1% | 10% | 10% | 3% | 6% | 8% | 1% | 18% | 8% | 12% |
| 75th percentile (\$000's) | \$150 | \$150 | \$100 | \$100 | \$200 | \$100 | \$400 | \$70 | \$100 | \$100 | \$300 | \$200 | \$100 |
| Median (\$000's) | \$78 | \$100 | \$63 | \$63 | \$90 | \$58 | \$200 | \$20 | \$100 | \$75 | \$125 | \$150 | \$45 |
| 25th percentile (\$000's) | \$34 | \$40 | \$38 | \$38 | \$25 | \$18 | \$55 | \$15 | \$50 | \$35 | \$58 | \$95 | \$35 |
| ESTIMATE OF TOTAL COST, THROUGH END OF DISCOVERY AND INCLUSIVE, IN A COPYRIGHT INFRINGEMENT SUIT | | | | | | | | | | | | | |
| Less than \$1 million at risk | | | | | | | | | | | | | |
| End of discovery | | | | | | | | | | | | | |
| Number Reporting | 100 | 2 | 7 | 2 | 9 | 3 | 3 | 8 | 9 | 2 | 22 | 6 | 14 |
| % of total | | 2% | 7% | 2% | 9% | 3% | 3% | 8% | 9% | 2% | 22% | 6% | 14% |
| 75th percentile (\$000's) | \$199 | \$248 | \$248 | \$248 | \$399 | \$250 | \$40 | \$150 | \$63 | \$152 | \$149 | \$200 | \$298 |
| Median (\$000's) | \$101 | \$50 | \$50 | \$50 | \$148 | \$39 | \$148 | \$51 | \$102 | \$98 | \$99 | \$75 | \$175 |
| 25th percentile (\$000's) | \$51 | \$39 | \$39 | \$39 | \$49 | \$49 | \$49 | \$49 | \$98 | \$51 | \$49 | \$125 | \$51 |
| Inclusive, all costs | | | | | | | | | | | | | |
| Number Reporting | 97 | 2 | 7 | 2 | 9 | 3 | 3 | 8 | 9 | 2 | 22 | 6 | 12 |
| % of total | | 2% | 7% | 2% | 9% | 3% | 3% | 8% | 9% | 2% | 23% | 6% | 12% |
| 75th percentile (\$000's) | \$302 | \$401 | \$101 | \$101 | \$501 | \$498 | \$100 | \$251 | \$108 | \$252 | \$251 | \$538 | \$252 |
| Median (\$000's) | \$249 | \$77 | \$77 | \$77 | \$249 | \$249 | \$75 | \$198 | \$80 | \$202 | \$248 | \$350 | \$248 |
| 25th percentile (\$000's) | \$101 | | | | | | | | | | \$124 | \$90 | \$250 |

Table 22. Estimated Costs of Litigation, by Location of Primary Place of Work (*continued*)

| | | Location of Respondent's Primary Place of Work | | | | | | | | | | | |
|--|-------------|--|-------------------------|--------------------|------------|-----------------|-----------------|--------------|----------------------|---------------|---------|------------|------------|
| Total Survey | Boston Area | NYC Area | Philadelphia-Wilmington | Washington DC Area | Other East | Metro Southeast | Other Southeast | Chicago Area | Minneapolis-St. Paul | Other Central | Texas | California | Other West |
| ESTIMATE OF TOTAL COST, THROUGH END OF DISCOVERY AND INCLUSIVE, IN A COPYRIGHT INFRINGEMENT SUIT \$1-\$25 million at risk | | | | | | | | | | | | | |
| End of discovery | | | | | | | | | | | | | |
| <u>Number Reporting</u> | 81 | 1% | 6 | 2 | 5 | 2 | 2% | 10% | 9% | 2% | 18 | 5 | 15 |
| <u>% of total</u> | | | 7% | 2% | 6% | 2% | | | | | 6% | 19% | 9% |
| 75th percentile (\$000's) | \$500 | | \$399 | | \$601 | | \$138 | \$374 | \$349 | \$701 | \$999 | \$251 | |
| Median (\$000's) | \$298 | | \$200 | | \$500 | | \$100 | \$299 | \$201 | \$200 | \$600 | \$100 | |
| 25th percentile (\$000's) | \$101 | | \$75 | | \$399 | | \$70 | \$126 | \$99 | \$149 | \$500 | \$71 | |
| Inclusive, all costs | | | | | | | | | | | | | |
| <u>Number Reporting</u> | 81 | 1% | 6 | 2 | 5 | 2 | 2% | 10% | 10% | 2% | 18 | 5 | 14 |
| <u>% of total</u> | | | 7% | 2% | 6% | 2% | | | | | 6% | 17% | 9% |
| 75th percentile (\$000's) | \$998 | | \$650 | | \$1,001 | | \$180 | \$1,000 | \$502 | \$801 | \$2,000 | \$351 | |
| Median (\$000's) | \$499 | | \$400 | | \$750 | | \$145 | \$525 | \$399 | \$300 | \$1,375 | \$300 | |
| 25th percentile (\$000's) | \$200 | | \$150 | | \$699 | | \$95 | \$300 | \$200 | \$199 | \$999 | \$199 | |
| More than \$25 million at risk | | | | | | | | | | | | | |
| <u>End of discovery</u> | 65 | 1% | 4 | 1 | 5 | 2 | 2% | 8% | 11% | 7 | 2 | 13 | 5 |
| <u>Number Reporting</u> | | 2% | 6% | 2% | 8% | 3% | | | | 3% | 20% | 8% | 12% |
| <u>% of total</u> | | | | | | | | | | | 18% | 18% | 8% |
| 75th percentile (\$000's) | \$999 | | \$350 | | \$1,002 | | \$249 | \$999 | \$551 | \$1,501 | \$1,750 | \$502 | |
| Median (\$000's) | \$501 | | | | \$999 | | \$100 | \$500 | \$450 | \$1,000 | \$1,350 | \$499 | |
| 25th percentile (\$000's) | \$249 | | | | \$751 | | \$76 | \$201 | \$252 | \$299 | \$750 | \$124 | |
| Inclusive, all costs | | | | | | | | | | | | | |
| <u>Number Reporting</u> | 64 | 1% | 4 | 1 | 5 | 2 | 2% | 8% | 11% | 7 | 2 | 13 | 5 |
| <u>% of total</u> | | 2% | 6% | 2% | 8% | 3% | | | | 3% | 20% | 8% | 11% |
| 75th percentile (\$000's) | \$1,650 | | \$650 | | \$1,503 | | \$303 | \$1,998 | \$1,203 | \$2,003 | \$3,998 | \$753 | |
| Median (\$000's) | \$950 | | | | \$1,250 | | \$150 | \$750 | \$800 | \$1,700 | \$2,200 | \$700 | |
| 25th percentile (\$000's) | \$499 | | | | \$1,001 | | \$128 | \$403 | \$503 | \$898 | \$1,303 | \$498 | |